



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

**[SATS No. MO-042-FOR; Docket ID: OSM-2014-0002;
S1D1SSS08011000SX066A00067F144S180110;
S2D2SSS08011000SX066A00033F14XS501520]**

Missouri Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing receipt of a proposed amendment to the Missouri regulatory program (Missouri program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Missouri proposes revisions to its coal Ownership and Control Rules. Missouri intends to revise its program to be no less effective than the Federal regulations and to improve operational efficiency.

This document gives the times and locations that the Missouri program and this proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m., c.d.t., [Insert date 30 days after the date of publication in the FEDERAL REGISTER]. If requested, we will hold a public hearing on the amendment on [Insert date 25 days after date of publication in the FEDERAL REGISTER]. We will accept requests to speak at a hearing until 4:00 p.m., c.d.t. on [Insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by SATS No. MO-042-FOR, by any of the following methods:

- Mail/Hand Delivery: Len Meier, Division Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Suite 216, Alton, IL 62002.
- Fax: (618) 463-6470
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Missouri program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE’s Alton Field Division or the full text of the program amendment is available for you to read at www.regulations.gov.

Len Meier, Division Chief

Alton Field Division

Office of Surface Mining Reclamation and Enforcement

501 Belle Street, Suite 216

Alton, IL 62002

Telephone: (618) 463-6460

E-mail: lmeier@osmre.gov

In addition, you may review a copy of the amendment during regular business hours at

the following location:

Department of Natural Resources,

Land Reclamation Program

1738 East Elm Street

Jefferson City, Missouri 65101

Telephone: (573) 751-4041

FOR FURTHER INFORMATION CONTACT: Len Meier, Division Chief, Alton
Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street,
Suite 216, Alton, IL 62002 Telephone: (618) 463-6460. E-mail: lmeier@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Missouri Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background on the Missouri Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface

coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, “. . . State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act . . .; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Missouri program on November 21, 1980. You can find background information on the Missouri program, including the Secretary's findings, the disposition of comments, and conditions of approval, in the November 21, 1980, Federal Register (45 FR 77027). You can also find later actions concerning the Missouri program and program amendments at 30 CFR 925.10, 925.12, 925.15, and 925.16.

II. Description of the Proposed Amendment

By letter dated February 18, 2014 (Administrative Record No. MO-679), Missouri sent us an amendment to its program under SMCRA (30 U.S.C. 1201 et seq.). Missouri submitted the proposed amendment in response to a September 30, 2009, letter (Administrative Record No. MO-670A) that OSMRE sent to Missouri in accordance with 30 CFR 732.17(c) and to improve operational efficiency. Below is a summary of Missouri's proposed changes. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at www.regulations.gov.

Missouri proposes to make changes to its Code of State Regulations at Title 10, Division 40 (10 CSR 40) in the following chapters:

- A. For Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration: Chapter 6.030, 6.070 and 6.100

Missouri proposes to change terms, add clarifying language, make grammar changes, and correct reference errors. The items below list the affected rule sections and proposed changes.

1. 10 CSR 40-6.030 - Surface Mining Permit Applications - Minimum Requirements for Legal, Financial, Compliance, and Related Information. Clarifies “owner” as persons that own, of record, ten percent of applicant or operator. Adds requirement to list the operator’s partners or principal shareholders. Adds “of the outside right-of-way” to the one hundred feet (100’) of a public road requirement in section (4)(C).
2. 10 CSR 40-6.070 - Review, Public Participation and Approval of Permit Applications and Permit Terms and Conditions. Adds “operator” throughout the chapter as an additional requirement with the term “applicant”. Lists what applications for proposed remining operations must contain in new sections

(8)(M)1, 2, 3, and (N).

Adds verbiage when the regulatory authority will consider a provisionally issued permit to be improvidently issued, and under what conditions the permits will be suspended or rescinded at section (11)(A)4.

Adds “suspension” to the section title of (11)(B), Rescission Procedures and throughout the section. Adds posting requirements for the notice of proposed suspension and rescission. Changes the time frame for the suspension notice from “not to exceed ninety (90) days...” to “will provide sixty (60) days notice...”

3. 10 CSR 40-6.100 - Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information.

Clarifies “owner” as persons that own, of record, ten percent of applicant or operator. Adds requirement to list the operator’s partners or principal shareholders.

B. For Definitions and General Requirements: Chapters 8.030 and 8.040

Missouri proposes to change terms, add clarifying language, make grammar changes, and correct reference errors. The items below list the affected rule sections and proposed

changes.

1. 10 CSR 40-8.030 – Permanent Program Inspection and Enforcement. Clarifies requirements under (6) Enforcement of Cessation Orders by adding requirements in section (G) requiring the regulatory authority to notify any persons listed under 10 CSR 40-6.070(12)(E) or 10 CSR 40-6.030(1)(C) and (D), and 10 CSR 40-6.100(1)(C) and (D) that the cessation order was issued, and that the person has been identified as an owner or controller of the operation. Adds subsection (H), Post-permit issuance information requirements for permittees.
2. 10 CSR 40-8.040 – Penalty Assessment. Increases the civil penalty under section (5) Assessment of Separate Violations for Each Day, subsection (B) from not less than \$750 to not less than \$1025.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues

pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see “**ADDRESSES**”).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include “Attn: SATS NO. MO-042-FOR” and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Alton Field Division at (618) 463-6460.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on [Insert date 15 days after date of publication in the FEDERAL REGISTER]. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER**

INFORMATION CONTACT. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866 - Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSMRE for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the Federal Register indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Ervin J. Barchenger, Regional Director
Mid-Continent Region

April 2, 2014

Date

[FR Doc. 2014-11656 Filed 05/19/2014 at 8:45 am; Publication Date: 05/20/2014]